

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**DANIEL KILLEEN and SHERYL BALTER**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO.1:06CV649 LTS-RHW**

**STATE FARM FIRE AND CASUALTY COMPANY**

**DEFENDANT**

**MEMORANDUM OPINION and ORDER**

The Court has before it the motion [42] of Defendant State Farm Fire and Casualty Company (State Farm) To Exclude the Expert Testimony of Carl Flettrich (Flettrich). Flettrich is a structural engineer who has been identified by the plaintiffs as an expert witness. The plaintiffs have retained Flettrich to evaluate the weather conditions on the Coast during Hurricane Katrina and to determine whether, in his opinion, the winds generated by the storm were sufficient to damage or destroy the plaintiff's insured property. Flettrich has given his opinion in the report that is now part of the record. (Exhibit A to the State Farm motion) In addition, Flettrich has given his deposition testimony. (Exhibit B to the State Farm motion)

State Farm argues that Flettrich's opinions are based on improper methodology and that his opinions do not take into consideration all the relevant facts. State Farm asserts that Flettrich should be barred from expressing his opinions under the holding of *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993).

After having read Flettrich's report and portions of his deposition testimony, I am of the opinion that he is qualified to express opinions under the Federal Rules of Evidence. A final decision on the issue of Flettrich's qualifications must await his tender as an expert and State Farm's cross-examination on voir dire. I am also of the opinion that the opinions Flettrich has expressed are supported by admissible evidence and were reached using methodology that is generally accepted in the field of structural engineering. It appears to me that the arguments State Farm has made concerning the substance of Flettrich's opinions go to the weight and not to the admissibility of his testimony.

I will deny this motion without prejudice to the right of State Farm to examine Flettrich concerning any matters touching his qualifications as an expert witness at the time he is tendered as an expert witness.

Accordingly, it is

**ORDERED**

That the motion [42] of State Farm Fire and Casualty Company To Exclude the Testimony of Carl Flettrich is **DENIED** without prejudice to the right of the defendant to examine Slider at the time he is tendered as an expert witness in this action.

**SO ORDERED** this 14<sup>th</sup> day of June, 2007.

s/ L. T. Senter, Jr.  
L. T. SENTER, JR.  
SENIOR JUDGE